

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

JUN 25 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISIONJOHN F. CORCORAN, CLERK
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UNITED STATES OF AMERICA)	Criminal Action No. 6:99cr70054-13
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
GREGG E. PARKER,)	By: Hon. Norman K. Moon
)	United States District Judge

Defendant Gregg E. Parker, a federal inmate proceeding pro se, has filed a document wherein he seeks to “recall” the final judgment in his criminal case, “re-open” the sentencing hearing, and withdraw his guilty plea, which the court construed as a motion to withdraw his guilty plea. In his motion, he claims that he received ineffective assistance of counsel; that counts in his original plea were charged, but yet later dismissed; that the government breached the plea agreement; that the state failed to provide equal protection; “misappropriation of policy”; and “lack of jurisdiction.” The government filed a motion to dismiss.

I.

On April 10, 2000, Parker pled guilty to conspiring to distribute cocaine base and carrying a firearm during a drug trafficking crime. On July 14, 2000, the court sentenced him to a total of 210 months imprisonment. Parker did not appeal that judgment. Parker did file a motion to vacate, set aside, or correct his sentence, pursuant to 28 U.S.C. § 2255 on August 14, 2002. However, the court dismissed his motion as untimely filed. See Civil Action No. 7:02cv00907. Parker then filed another motion pursuant to § 2255 on November 9, 2005, which was dismissed as successive. See Civil Action No. 7:05cv00690.

II.

Rule 11(e) of the Federal Rules of Civil Procedure stipulates that “[a]fter the court imposes sentence, the defendant may not withdraw a plea of guilty.” Furthermore, a guilty plea may only be

set aside on direct appeal or collateral attack. Id. As Parker never timely filed a direct appeal or collateral attack of his sentence, the court cannot now permit him to withdraw his guilty plea.

III.

For the reasons stated herein, the court will grant the government's motion to dismiss and deny defendant's motion to withdraw his guilty plea.

The Clerk is directed to send a certified copy of this Memorandum Opinion and the accompanying Order to the defendant.

ENTER: This 25th day of June, 2007.



United States District Judge